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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,332	02/05/2002	Stuart Baird Revill	9100-8	8820

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EXAMINER

PATTERSON, MARC A

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/068,332

Applicant(s)

REVILL, STUART BAIRD

Examiner

Marc A Patterson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

NEW REJECTIONS

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 – 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Maar (German Patent 2546278 B1).

With regard to Claim 1, Maar discloses a sleeve (flexible tube; page 9, line 2, of second paragraph of English translation) of netting (a net; page 10, lines 4 – 5 of first paragraph of English translation) that is elasticated (it consists of threads of a highly elastic material; page 10, lines 12 – 14 of English translation) provided with a seam (a connection between longitudinal threads ‘4’ and an opposite mesh ‘2’ by a pull thread ‘7’ as shown in Figure 1; page 10, lines 17 – 19 of English translation) such that when a product is encapsulated by the sleeve a portion of the sleeve will project from the product (Maar discloses that the sleeve encases the product entirely, because Maar discloses on page 7, lines 7 – 8 of the third paragraph that the product, a roast, has the same structure, the structure of the netting, on its entire surface; because the length of the pull thread extends beyond the length of the net, as shown in Figure 1, the length of the pull thread also extends beyond the length of the product, and therefore projects from the product because it is displayed outwardly by the product, and it is therefore a portion of the sleeve that projects from the product) and will not become embedded in the surface of the product when it is

cooked (in the condition of roasting, the net imparts only an extremely slight radial force so that the net is not pressed into the roasting crust; page 6, final line of second paragraph; page 7, lines 1 – 3 of English translation).

With regard to Claim 2, the seam disclosed by Maar extends longitudinally of the sleeve offset from the center of the sleeve (the seam extends in the lengthwise direction of the sleeve, as shown in Figure 1, and therefore extends longitudinally; it is also offset from the center of the sleeve because it is in the wall of the sleeve, rather than being located in the center of the inside of the sleeve); the projection is a minor portion, and therefore a small portion of, the width of the sleeve, because it is only the width of a pull thread that is used in making the sleeve; the projection is also isolated by the seam from the remainder of the sleeve (because the pull thread is within the seam, as shown in Figure 1, and the projecting portion is the portion of the pull thread that extends beyond the sleeve, the projecting portion only makes contact with the seam, and is therefore isolated from the remainder of the sleeve by the seam).

With regard to Claim 3, the seam disclosed by Maar is sewn with yarn stitches (the longitudinal threads, therefore yarns, can consist of stitch wales; page 10, line 6 of English translation) which become undone, and therefore unravel, when the pull thread, therefore also a yarn, is pulled, because the net is separated when the pull thread is pulled.

ANSWERS TO APPLICANT'S ARGUMENTS

3. Applicant's arguments regarding the 35 U.S.C. 102(b) rejection of Claims 1 – 3 as being anticipated by Maar (German Patent 2546278 B1), of record in the previous Action, have been carefully considered but have not been found to be persuasive for the reasons set forth below.

Applicant argues, on page 4 of the remarks dated February 23, 2005, that Maar does not teach or suggest an elasticated netting; Maar, Applicant argues, discloses a non – elastic mesh comprising elastic expansion strips

However, the expansion strips are threads which are clearly included in the netting (page 10, lines 12 – 14 of English translation), and the netting is therefore elasticated.

Applicant also argues on page 4 that the pull thread disclosed by Maar is not properly characterized as a portion of the sleeve and is not projecting from the product.

However, as shown in Figure 2 of Maar, the pull thread '7' is clearly a portion of the sleeve because it must be pulled to be separated from the sleeve, and also projects from the product because a product contained in the netting would be in contact with the pull thread.

Applicant also argues, on page 6, that Maar does not teach the use of the projection for handling of the netting.

However, use of the projection for handling is not claimed, and it is not clear that support exists for the limitation in the specification. Furthermore, use of the projection for handling is an intended use, and would therefore be given little patentable weight.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497. The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marc Patterson

Marc A. Patterson, PhD.
Examiner
Art Unit 1772

Harold Pyon
HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

6/21/05